

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | 4:07CR3117 |
| |) | |
| V. |) | |
| |) | |
| SANTIAGO ALMAZAN RIOS, |) | MEMORANDUM |
| |) | AND ORDER |
| |) | |
| Defendants. |) | |

I have considered the defendant's objection to Judge Piester's report and recommendation. I will deny the objection. I will adopt the report and recommendation.

Judge Piester heard the testimony of the police officer. In fact, he asked his own questions. (E.g., filing 47 at CM/ECF pages 33-37.) After that, he very carefully considered this matter in a 15-page written decision. Except for the following, I have nothing to add.

These points are especially significant to me:

- * Given the defendant's cooperative attitude, the defendant's statement to the police, and the defendant's related hand gesture, a reasonable police officer could have construed what the defendant did and said to be an invitation to come into the motel room for the purpose of contacting Mr. Vega.
- * Once the officers received permission to enter the room, other principles—having to do with officer safety, searches incident to arrest and the plain view doctrine—justified the additional intrusive police behavior.

Accordingly, and after de novo review,

IT IS ORDERED that:

1. The report and recommendation (filing 48) is adopted.
2. The objection (filing 59) is denied.
3. The motion to suppress (filing 26) is denied.

December 17, 2007

BY THE COURT:

S/Richard G. Kopf
United States District Judge